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SENATE BILL 266

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO THE ENVIRONMENT; PROVIDING CRIMINAL PENALTIES FOR CERTAIN TRANSPORTATION, TREATMENT, STORAGE AND DISPOSAL OF USED OIL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-4-11 NMSA 1978 (being Laws 1977, Chapter 313, Section 11, as amended) is amended to read:

"74-4-11. PENALTY--CRIMINAL.--

A. No person:

(1) shall knowingly transport or cause to be transported any hazardous waste identified or listed pursuant to the Hazardous Waste Act to a facility that does not have a permit under that act or the federal Resource Conservation and Recovery Act of 1976;

(2) shall knowingly treat, store or dispose of

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1 any hazardous waste identified or listed pursuant to the
2 Hazardous Waste Act:

3 (a) without having obtained a hazardous
4 waste permit pursuant to that act or the federal Resource
5 Conservation and Recovery Act of 1976;

6 (b) in knowing violation of any material
7 condition or requirement of a hazardous waste permit; or

8 (c) in knowing violation of any material
9 condition or requirement of any applicable interim status rules
10 or standards;

11 (3) shall knowingly omit material information
12 or make any false statement or representation in any
13 application, label, manifest, record, report, permit or other
14 document filed, maintained or used for purposes of compliance
15 with the Hazardous Waste Act;

16 (4) who knowingly generates, stores, treats,
17 transports, disposes of, exports or otherwise handles any
18 hazardous waste or used oil shall knowingly destroy, alter,
19 conceal or fail to file any record, application, manifest,
20 report or other document required to be maintained or filed for
21 purposes of compliance with rules adopted and promulgated
22 pursuant to the Hazardous Waste Act;

23 (5) shall knowingly transport without a
24 manifest or cause to be transported without a manifest any
25 hazardous waste required by rules adopted and promulgated

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1 pursuant to the Hazardous Waste Act to be accompanied by a
2 manifest; [~~or~~]

3 (6) shall knowingly export hazardous waste
4 identified or listed pursuant to the Hazardous Waste Act:

5 (a) without the consent of the receiving
6 country; or

7 (b) where there exists an international
8 agreement between the United States and the government of the
9 receiving country establishing notice, export and enforcement
10 procedures for the transportation, treatment, storage and
11 disposal of hazardous wastes, in a manner that is not in
12 conformance with such agreement; or

13 (7) shall knowingly store, treat, dispose of,
14 transport, cause to be transported, market or otherwise handle
15 any used oil in knowing violation of any material condition or
16 requirement of any applicable rule adopted and promulgated
17 pursuant to the Hazardous Waste Act.

18 B. Any person who violates any of the provisions of
19 Paragraphs (1) through [~~(6)~~] (7) of Subsection A of this
20 section is guilty of a fourth degree felony and upon conviction
21 shall be punished by a fine of not more than ten thousand
22 dollars (\$10,000) per violation per day or by imprisonment for
23 a definite term of not more than eighteen months or both. For
24 a second or subsequent violation of the provisions of
25 Paragraphs (1) through [~~(6)~~] (7) of Subsection A of this

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1 section, the person is guilty of a third degree felony and
2 shall be punished by a fine of not more than twenty-five
3 thousand dollars (\$25,000) per violation per day or by
4 imprisonment for not more than three years or both.

5 C. Any person who knowingly violates any rule
6 adopted and promulgated pursuant to Subsection C of Section
7 74-4-4 or 74-4-4.4 NMSA 1978 is guilty of a misdemeanor and
8 upon conviction shall be punished by a fine of not more than
9 five thousand dollars (\$5,000) per violation per day or by
10 imprisonment for a definite term of one year or both. For
11 violations related to storage tanks, "per violation" means per
12 tank.

13 D. Any person who knowingly transports, treats,
14 stores, disposes of or exports any hazardous waste or used oil
15 in violation of Subsection A of this section and who knows at
16 the time of the violation that [~~he~~] the person creates a
17 substantial danger of a substantial adverse environmental
18 impact is guilty of a third degree felony if the violation
19 causes a substantial adverse environmental impact.

20 E. As used in this section, a "substantial adverse
21 environmental impact" exists when an act or omission of a
22 person causes harm or damage:

23 (1) to human beings; or

24 (2) to flora, wildlife, fish or other aquatic
25 life or water fowl; to the habitats of wildlife, fish, other

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1 aquatic life, water fowl or livestock; to agricultural crops;
2 to any ground water or surface water; or to the lands or waters
3 of this state where such harm or damage amounts to more than
4 ten thousand dollars (\$10,000).

5 F. Any person who knowingly transports, treats,
6 stores, disposes of or exports any hazardous waste or used oil
7 in violation of Subsection A of this section and who knows at
8 the time of the violation that [~~he~~] the person creates a
9 substantial danger of death or serious bodily injury to another
10 person is guilty of a second degree felony and shall be
11 sentenced to a term of imprisonment not to exceed nine years or
12 a fine not to exceed one hundred thousand dollars (\$100,000),
13 or both. Any person, other than an individual, that knowingly
14 transports, treats, stores, disposes of or exports any
15 hazardous waste or used oil in violation of Subsection A of
16 this section and knows at that time that it places an
17 individual in imminent danger of death or serious bodily injury
18 is guilty of a second degree felony and shall be fined in an
19 amount not to exceed two hundred fifty thousand dollars
20 (\$250,000)."

21 Section 2. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2007.